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09/805,679	03/13/2001	Paul E. Jacobs	000283	3660

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Qualcomm Incorporated
Patents Department
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EXAMINER

SON, LINH L D

ART UNIT

PAPER NUMBER

2135

DATE MAILED: 08/02/2004

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/805,679

Applicant(s)

JACOBS, PAUL E. 

Examiner

Linh Son

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 March 2001.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-13 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 6, and 9-10 are rejected under 35 U.S.C. 102(e) as being anticipated by Petrovic (US/6674993).

3. As per claims 1, 6 and 9, Petrovic discloses the "Remote Control Signaling Using Audio Watermarks" invention, which includes a portable communication device (Col 5 lines 34-44) comprising: a microphone structured for receiving sound waves (Col 4 lines 53-55), the sound waves being representative of (i) an audio signal and (ii) hidden data embedded in the audio signal (Col 4 lines 55-57), the microphone converting the received sound waves into an electrical output signal (Col 8 lines 39-43, and Col 9 line 53 to Col 10 line 14); a processor electrically coupled to the microphone and configured to receive the electrical output signal in order to extract the hidden data and provide information represented by the hidden data as an output thereof (Col 7 lines 20-44, Col 8 lines 39-50, Col 9 line 35 to Col 10 line 65); a user interface electrically coupled to the

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processor (Col 5 line 34-44) and configured to (i) receive a first input from the user (Col 5 lines 45-53) and (ii) activate the processor to selectively initiate extraction of the hidden data in accordance with the first user input (Col 6 lines 39-50), the processor producing as an output the information represented by the hidden data (Col 5 lines 34-44, and Col 6 lines 27-38); and a user presentation mechanism configured to present the information represented by the hidden data to the user (Col 5 lines 38-40).

4. As per claim 2, Petrovic discloses the portable communication device according to claim 1, wherein the user interface is further configured to (i) receive a second input from the user and (ii) activate the processor to output data representative of the second input, the second input being indicative of user preferred portions of the information representative of the hidden data presented to the user (Col 6 lines 4-24, and Col 6 lines 27-49).

5. As per claim 10, Petrovic discloses a method of communicating using a system including a processor, a user interface, and a user presentation mechanism, the method comprising: receiving sound waves using a microphone (Col 4 lines 53-55), the sound waves being representative of (i) an audio signal and (ii) hidden data embedded in the audio signal (Col 4 lines 55-57), and converting the received sound waves into an electrical signal (Col 8 lines 39-43, and Col 9 line 53 to Col 10 line 14); selectively extracting the hidden data from the electrical signal in accordance with a first input from a user and producing information representative of the hidden data (Col 5 lines 45-54);

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and presenting the information representative of the hidden data to the user (Col 5 lines 34-44, and Col 6 lines 27-38).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Petrovic in view of Wolosewicz (US/5774452), further in view of Wolosewicz, and further in view of Rhoads (US/2002/0078146 A1).

8. As per claim 8, Petrovic discloses a communication system for processing a broadcast audio signal including hidden data, the communication system comprising: a portable communication device including: a microphone structured for receiving sound waves (Col 4 lines 53-55), the sound waves being representative of (i) an audio signal (and (ii) hidden data embedded in the audio signal (Col 4 lines 55-57), the microphone converting the received sound waves into an electrical output signal (Col 8 lines 39-43, and Col 9 line 53 to Col 10 line 14); a processor electrically coupled to the microphone and configured for receiving the electrical output signal in order to extract the hidden data and provide information representative of the hidden data as an output thereof (Col

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5 lines 34-44, and Col 6 lines 27-38). However, Petrovic discloses a user interface electrically coupled to the processor and configured for (i) receiving a first input from the user and (ii) activating the processor to selectively initiate extraction of the hidden data in accordance with the first user input, the processor producing as an output the information represented by the hidden data; and a user presentation mechanism configured for presenting the information represented by the hidden data to the user; wherein the user interface is further configured to (i) receive a second input from the user and (ii) activate the processor to output data representative of the second input, the second input being indicative of preferred user portions of the information represented by the hidden data presented to the user; an output mechanism electrically coupled to the processor and configured for receiving the output therefrom and transmitting a signal corresponding to the received output; and a base station configured to (i) receive and process the signal corresponding to the output from the portable communication device, (ii) extract the hidden data from the processed signal, the hidden data including identifier information and linking information, and (iii) establish a communication link to a destination represented by the linking information.

Nevertheless, Wolosewics does teach a user interface electrically coupled to the processor and configured for (i) receiving a first input from the user (Col 14 lines 18-24) and (ii) activating the processor to selectively initiate extraction of the hidden data in accordance with the first user input, the processor producing as an output the information represented by the hidden data (Col 13 line 53 to Col 14 line 25); and a user presentation mechanism configured for presenting the information represented by the

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hidden data to the user (Col 13 line 13); wherein the user interface is further configured to (i) receive a second input from the user (Col 14 lines 25-41) and (ii) activate the processor to output data representative of the second input, the second input being indicative of preferred user portions of the information represented by the hidden data presented to the user; an output mechanism electrically coupled to the processor and configured for receiving the output therefrom and transmitting a signal corresponding to the received output (Col 14 lines 25-41); a base station configured to (i) receive and process the signal corresponding to the output from the portable communication device (Col 13 lines 5-10), (ii) extract the hidden data from the processed signal, the hidden data including identifier information (Col 14 lines 25-41). However, Neither Petrovic and Wolosewicz teach the hidden data including the linking information, and (iii) establish a communication link to a destination represented by the linking information. On the other hand, Rhoads discloses a method of encoding URL or address information into the audio data to permit linking to the Internet (Para 0307-0324). Therefore, it is obvious at the time of the invention was made for one of ordinary skill in the art to combine Petrovic, Wolosewicz, and Rhoads' teaching to create a mobile encoding and decoding communication device which able to decoding information from audio signal; display the decoded information; allow user to select and link to a destination for purchase (Col 14 lines 25-41).

9. Claims 10 rejected under 35 U.S.C. 103(a) as being unpatentable over Petrovic in view of Wolosewicz (US/5774452).

10. As per claim 10, Petrovic discloses a method of communicating using a system including a processor, a user interface, and a user presentation mechanism, the method comprising: receiving sound waves using a microphone (Col 4 lines 53-55), the sound waves being representative of (i) an audio signal and (ii) hidden data embedded in the audio signal (Col 4 lines 55-57), and converting the received sound waves into an electrical signal (Col 8 lines 39-43, and Col 9 line 53 to Col 10 line 14). However, Petrovic does not specifically teach the selectively extracting the hidden data from the electrical signal in accordance with a first input from a user and producing information representative of the hidden data; and presenting the information representative of the hidden data to the user. Nevertheless, Wolosewicz teaches a decoder to extract hidden data in audio signal which allow a user to be interactively selecting any content and display it on the screen (Col 13 lines 53-67, and Col 13 lines 1-20). Therefore, it is obvious at the time of the invention was made for one of ordinary skill in the art to incorporate Wolosewicz with Petrovic's teaching to be capable of selecting a desired content (Petrovic, Col 4 lines 15-43, and Wolosewicz, Col 13 lines 53-67).

Claim Rejections - 35 USC § 102

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1-6, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Wolosewicz (US/5774452).

13. As per claims 1, 6, and 9, Wolosewicz discloses the "Apparatus and Method for Encoding and Decoding Information in Audio Signals" invention, which discloses a portable communication device (Fig. 9) comprising: a receiver structured to receive a radio frequency signal (Col 1 line 50 to Col 2 line 13) containing hidden data and converting the radio frequency signal into an electrical output signal (Col 3 lines 11-23); a processor electrically coupled to the receiver and configured to receive the electrical output signal in order to extract the hidden data and provide information represented by the hidden data as an output thereof (Col 15 line 38 to Col 17 line 12); a user interface electrically coupled to the processor and configured to (i) receive a first input from the user (Col 13 lines 13-67) and (ii) activate the processor to selectively initiate extraction of the hidden data in accordance with the first user input (Col 13 lines 53-67), the processor producing as an output the information represented by the hidden data (Col 13 lines 53-67); and a user presentation mechanism configured for presenting the information represented by the hidden data to the user (Col 13 lines 1-20).

14. As per claim 2, Wolosewicz discloses the portable communication device according to claim 1, wherein the user interface is further configured to (i) receive a second input from the user and (ii) activate the processor to output data representative

of the second input, the second input being indicative of user preferred portions of the information representative of the hidden data presented to the user (Col 14 lines 25-40).

15. As per claim 3, Wolosewicz discloses the portable communication device according to claim 2, further comprising an output mechanism electrically coupled to the processor and configured to receive the output therefrom and transmitting a signal corresponding to the received output (Col 14 lines 25-40).

16. As per claim 4, Wolosewicz discloses the portable communication device according to claim 3, wherein the transmitted signal activates computer network functions (Col 14 lines 25-40).

17. As per claim 5, Wolosewicz discloses the portable communication device according to claim 3, further comprising an embedding device for (i) receiving the output from the processor and (ii) embedding the output with identification information, wherein the signal corresponding to the received output includes the embedded identification information (Col 14 lines 18-40).

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over

Wolosewicz (US/5774452) in view of Rhoads (US 2002/0078146 A1).

20. As per claim 7, Wolosewicz discloses a base station configured to (i) receive and process information broadcast from a portable communication device, (ii) extract hidden data from the processed broadcast information (Col 15 line 38 to Col 17 line 12), the extracted hidden data including identifier information (Col 13 lines 40-45). However, Wolosewicz does not teach the extracted hidden data including the linking information, and (iii) establish a communication link to a destination represented by the linking information. Nevertheless, Rhoads discloses a method of encoding URL or address information into the audio data to permit linking to the Internet (Para 0307-0324). Therefore, it is obvious at the time of the invention was made for one of ordinary skill in the art to combine both teachings to obtain more information about the selected contents.

21. Claims 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rhoads (US/2004/0128514A1).

22. As per claims 11 and 13, Rhoads discloses the "Method for Increasing the Functionality of a Media Player/Recorder Device or an Application Program" invention,

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which teaches a communication apparatus (Para 0009-0013) which is wirelessly communicating with a streaming media service provider (Para 0024). The received streaming media signal contains the watermark that has hidden information such as: identifier, artist, title, URL, and other information relevant to purchasing the media content (Col 0019-0020). The communication apparatus decode the received streaming media signal; display the decoded information; allow user to input selections; transmit the selection back to the provider and carrier out necessary transaction to retrieve the selection (Para 0023-0032). However, Rhoads does not directly teach a method of sharing broadcast revenue among a plurality of entities. Nevertheless, Rhoads does teach about the many different service providers involving in the system of the invention, such as the relay station for wireless communication, the broadcasting Radio, the Internet audio server and more (Para 0016, 0024, 0025, 0030, and 0044. Therefore, would have been obvious at the time the invention was made to a person having ordinary skill in the art that the method of sharing broadcast revenue is explicitly teaching in order for a group of service providers to support one another.

23. As per claim 12, Rhoads discloses the method of sharing broadcast revenue according to claim 11, wherein the separating includes converting the received broadcast data signals into electrical signals and extracting the hidden information from the electrical signals (Para 0012).

Conclusion

24. Any inquiry concerning this communication from the examiner should be directed to Linh Son whose telephone number is (703)-305-8914.

25. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Kim Y. Vu can be reached at (703)-305-4393. The fax numbers for this group are (703)-872-9306 (official fax). Any inquiry of general nature or relating to the status of this application or proceeding should be directed to the group receptionist whose telephone number is (703)-305-9600.

Linh LD Son

Patent Examiner

Handwritten signature
AU 2135